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May 12, 2008

The Honorable John C. Rood
Acting Under Secretary for Arms Control and International Security
Department of State
Directorate of Defense Trade Controls (DDTC) Policy
ATTN: Regulatory Change, ITAR Section 121
SA-1
12th Floor
Washington, DC 20522-0112

RE: **RIN 1400-AC47** Proposed Rule to Amend the International Traffic in Arms Regulations (ITAR)
Section 121

Dear Secretary Rood:

In light of my longstanding commitment to supporting export control policies that advance U.S. national security and foreign policy interests while strengthening the U.S. industrial base and reducing impediments to legitimate trade, I would like to thank you for your efforts to clarify the original intent of Section 17(c) of the Export Administration Act.

Clearing up the previously unpredictable treatment of civil aircraft parts and components will help American manufacturers remain competitive in the increasingly globalized marketplace for commercial aviation products. The EAA's provision, which expressly placed parts and components certified by the Federal Aviation Administration under the jurisdiction of the Commerce Department, has been inconsistently interpreted by both industry and the federal government.

The State Department's proposed amendment to part 121 of the International Traffic in Arms Regulations, as published April 11 in the Federal Register, is a welcomed "bright line" for manufacturers of civil aircraft parts and components. This regulation will make it easier for manufacturers to understand, and comply with, U.S. export law.

The proposed rule properly clarifies that the Export Administration Regulations (EAR) control items designed for civil, non-military aircraft and civil, non-military aircraft engines. It also states, helpfully, that non-Significant Military Equipment items which are standard equipment; covered by a civil aircraft type certificate issued by the FAA for a civil, non-military aircraft; and an integral part of that aircraft are also subject to the EAR.

The proposed rule would also move military hot section components and military digital engine controls for military aircraft engines from Category VIII(h) to Category VIII(b), newly designating these parts as significant military equipment. This significant change may impose an unnecessary – and perhaps unintended – burden on aircraft engine companies.

The amended language could potentially impact licensing requirements for thousands of aircraft engine parts, resulting in a considerable increase in the number of manufacturing license agreements and technical assistance agreements that require Congressional Notification. The change could extend an already lengthy licensing process without any appreciable amplification of national security. I appreciate, though, the government's legitimate interest in determining the jurisdiction of sensitive military commodities.

Some minor clarifications, however, would help conform this amendment to existing practices and principles. I make the following suggestions:

- The insertion of “any part, component (including propellers), **or other item...**” in the first paragraph of the Note would make this description consistent with the wording of the EAR.
- In the same paragraph, the word “exclusively” should be removed. It suggests that parts specifically designed for both military and civilian aircraft, known as “dual use” items, are not subject to the EAR.
- The Note should also be amended to read “...without modification **of the item's form, fit or function.**” to reflect the DDTC's longstanding position that commodity jurisdiction is not affected by a modification that does not affect the item's form, fit or function. The addition helps clarify the scope of modifications that may cause an item's jurisdictional status to change.
- The definition of “standard equipment” should be modified to include “industry **or manufacturer's specification or standard.**” Many civil aircraft and civil aircraft parts manufacturers publish their own specifications for their products.

Thank you for considering my input on this proposed rule. I look forward to continuing to work with you and the State Department to provide clarity and predictability in export control matters.

Sincerely yours,

A handwritten signature in black ink that reads "Donald A. Manzullo". The signature is written in a cursive, flowing style.

Donald Manzullo
Member of Congress